

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division**

DALE FOSTER, DARLA SOLOMON)	
and DAVID LEITHREN, individually and)	
on behalf of all others similarly situated)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:22-cv-1581 (GLR)
)	
LOWER, LLC,)	
)	
Defendant.)	
_____)	

EDGAR WOLFF, individually and)	
on behalf of all others similarly situated)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:22-cv-02003-JKB
)	
LOWER, LLC,)	
)	
Defendant.)	
_____)	

**PLAINTIFFS' MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

Pursuant to Federal Rule of Civil Procedure 23(e)(2) (“Rule 23”), Plaintiffs Dale Foster, Darla Solomon, David Leithren, and Edgar Wolff, individually and on behalf of all others similarly situated, hereby move this Court for final approval of the class action Settlement¹ that this Court preliminarily approved on July 27, 2023 (*Foster*, ECF No. 42):

Class Representatives respectfully request this Court:

¹ Unless otherwise indicated, capitalized terms used in this Motion have the same meanings as in the Class Action Settlement Agreement and Release (the “Settlement Agreement”). *Foster*, ECF No. 41-2.

1. Grant final certification of the Settlement Class for settlement purposes pursuant to Rule 23(a) and (b)(3);
2. Finally appoint Dale Foster, Darla Solomon, David Leithren, and Edgar Wolff as Class Representatives;
3. Finally appoint David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC and Raina C. Borrelli of Turke & Strauss LLP, as Settlement Class Counsel;
4. Approve the requested combined attorneys' fees and costs in the amount of \$485,000, for Settlement Class Counsel;
5. Finally approve the requested Service Awards of \$2,500 to each Class Representative, for a total Service Award payment of \$10,000;
6. Find that the Notice met the requirements of Rule 23(c)(2)(B);
7. Find that the terms of the Settlement Agreement are fair, reasonable, and adequate and are approved, adopted, and incorporated by the Court;
8. Direct the Parties, their respective attorneys, and the Claims and Settlement Administrator to consummate the Settlement in accordance with the [Proposed] Final Judgment Approving Class Action Settlement (“[Proposed] Final Judgment”) and terms of the Settlement Agreement;
9. Resolve all claims as to all Parties and Class Members in this action and issue the [Proposed] Final Judgment; and
10. Dismiss the lawsuit with prejudice and without costs, except as provided in the Settlement Agreement.

This Motion is based on: (1) this Motion; (2) the Supporting Memorandum filed herewith (“Memorandum”); (3) the Declaration of Sara Rugg of Angeion Group in connection with Final

Approval of Settlement, attached as **Exhibit 1** to the Memorandum; (4) the Settlement Agreement and accompanying Exhibits (*Foster*, ECF 41-2); (5) Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, Supporting Memorandum, Supporting Declarations, and Firm Resumes (*Foster*, ECF 41, 41-1, 41-3, 41-4, 41-5); (6) Plaintiffs' Motion for Attorneys Fees, Costs, Expenses, and Service Awards to Class Representatives ("Motion for Attorneys' Fees") (*Foster*, ECF 43); (7) Memorandum in Support, and Supporting Declaration of David K. Lietz, and accompanying documents (*Foster*, ECF 43-1, 43-2, 43-3); (8) all other pleadings and papers on file in this action; and (9) any oral argument that may be heard by this Court at or prior to the Final Approval Hearing currently scheduled for December 1, 2023 at 10:00 a.m.

Defendant Lower LLC does not oppose the relief sought in this motion.

WHEREFORE, premises considered, Plaintiffs request that this Court grant this motion and grant Plaintiffs' Motion for Attorneys' Fees.

Dated: November 17, 2023

TURKE & STRAUSS LLP

By: /s/ Raina C. Borrelli
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Attorneys for Plaintiffs and the Settlement Class

CERTIFICATE OF SERVICE

I, Raina C. Borrelli, hereby certify that on November 17, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record via the ECF system.

DATED this 17th day of November, 2023.

TURKE & STRAUSS LLP

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